

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SUNSHINE SPURGEON,

Plaintiff,

v.

OLYMPIC PANEL PRODUCTS LLC,
a Washington State Limited Liability
Company; THE INTERNATIONAL
ASSOCIATION OF MACHINISTS,
WOODWORKERS LOCAL LODGE W-38,

Defendants.

CASE NO. C07-5436BHS

ORDER DENYING
MOTIONS AND REQUESTS OF
DEFENDANT WOODWORKERS
LOCAL LODGE W-38 AND
DENYING PLAINTIFF'S
MOTION TO CONTINUE
DEFENDANTS['] HEARING
DATE

This matter comes before the Court on Motions and Requests of Defendant Woodworkers Local Lodge (Dkt. 9) and Plaintiff's Motion to Continue Defendants['] Hearing Date (Dkt. 10). The Court has considered the pleadings filed in support of and in response to the motions and hereby denies the motions for the reasons stated herein.

I. BACKGROUND AND DISCUSSION

On December 19, 2007, Plaintiff filed a joint status report evidencing several discovery disputes between Plaintiff and Defendants. Dkt. 7. On the same day, the International Association of Machinists, Woodworkers Local Lodge W-38 ("Local Lodge") made several discovery-related requests by motion. Dkt. 9. First, Local Lodge requested that the Court order Plaintiff to appear for a deposition at an agreed-upon date during the first two weeks of January,

2008. Dkt. 9 at 3. Second, Local Lodge requests that the Court set a scheduling conference during the week of January 4, 2008. *Id.* Local Lodge contends that Plaintiff's claims against Local Lodge should be resolved by summary judgment and seeks to depose Plaintiff to aid Local Lodge in preparing its summary judgment. *Id.* at 3. Olympic Panel Products, LLC joins in Local Lodge's requests.

On December 20, 2007, Plaintiff moved to continue Local Lodge's motion and concurrently filed several exhibits and declarations in response to Local Lodge's requests. Dkt. 10. Local Lodge does not object to extending the time for Plaintiff to respond to the motion.

The timing and sequence of discovery are governed by Federal Rule of Civil Procedure 26(d), which provides as follows:

(1) Timing. A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

(2) Sequence. Unless, on motion, the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:

(A) methods of discovery may be used in any sequence; and

(B) discovery by one party does not require any other party to delay its discovery.

Fed. R. Civ. P. 26(d). Except under certain circumstances, deposition by oral examination does not require leave of court. Fed. R. Civ. P. 30(a).

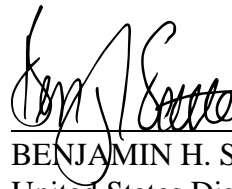
Local Lodge seeks to depose Plaintiff during the first two weeks of January. Dkt. 9 at 3. Apparently, Plaintiff is not available during the time periods proposed by Local Lodge. *Id.* It does not appear that any of the circumstances requiring leave of court apply to Local Lodge's attempts to depose Plaintiff, however. The Court is therefore reluctant to hold a scheduling conference at this time. The parties are encouraged to cooperate to resolve discovery disputes without intervention from the Court. Furthermore, the parties are encouraged to obey both the letter and spirit of the Federal Rules of Civil Procedure and to work together to manage discovery in the most efficient manner practical.

II. ORDER

Therefore, it is hereby

ORDERED that Motions and Requests of Defendant Woodworkers Local Lodge (Dkt. 9) is **DENIED**, and Plaintiff's Motion to Continue Defendants['] Hearing Date (Dkt. 10) is **DENIED**.

DATED this 3rd day of January, 2008.


BENJAMIN H. SETTLE
United States District Judge